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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,973	07/23/2003	Leo Donald Knight		6602

7590

12/13/2004

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EXAMINER

COCKS, JOSIAH C

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/624,973

Applicant(s)

KNIGHT, LEO DONALD

Examiner

Josiah Cocks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

2. New corrected drawings of Figures 1 and 2 in compliance with 37 CFR 1.121(d) are required in this application because the shading of these Figures is considered to be too dark and reduces legibility. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Objections

3. Claim 1 is objected to because of the following informalities: The phrasing of this claim is awkward as the claim refers to specific components of the portable campfire prior to them being introduced in the claim (e.g. line 2 reciting "the canister base assembly" before introducing

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“a canister base assembly” in line 4, and the reference to “the lower burner unit assembly” in line 7 prior to introducing “a lower burner unit assembly” in line 5). Applicant should amend the claim to introduce the claim elements before referring to the elements.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the attached centering ring" in lines 4-5. There is insufficient antecedent basis for this limitation in the claim. As best can be determined, and for the purpose of an examination on the merits, this claim has been regarded as reciting --an attached centering ring--.

Claim 2 recites the limitation "the canister base" in line 2. There is insufficient antecedent basis for this limitation in the claim. Did applicant intend to introduce a canister base assembly similar to that introduced in claim 1 or simply recite a canister base? As best can be determined, and for the purpose of the examination on the merits, this claim has been regarded as reciting --a canister base-- in line 1. Correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,765,397 to Henderson (“Henderson”).

Henderson discloses in Figures 1-6 the invention as described in applicant’s claims 6 and 7. In particular, Henderson discloses a portable fireplace in a can comprising a lower burner unit (14) with perforated sidewall (via perforations 50) and an open top (see Fig. 1). As shown in Fig. 2, base plate member (54) functions to close the bottom of the lower burner unit and is considered affixed. Henderson also discloses a portable campfire/stove in a can comprising an upper burner unit (12) with a perforated sidewall (see wall of unit 12, Fig. 1) and a group of support fingers/tabs (26) mounted on the inside of the perforated wall. These tabs are considered to be capable of supporting logs. Henderson also discloses a group of holes (30) mounted at the top of the perforated sidewall and a group of holes (31 or 51) mounted at the bottom of the perforated sidewall. These holes are considered the handle holes as recited in applicant’s claims. Henderson further discloses a group of tabs (32) extending outward from the perforated sidewall (see Fig. 1). These tabs are considered the burner support tabs as recited in applicant’s claims.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,765,397 to Henderson ("Henderson").

Henderson discloses in Figures 1-6 an invention similar to that described in applicant's claim 6. In particular, Henderson discloses a portable campfire/stove in a can comprising an upper burner unit (12) with a perforated sidewall (see wall of unit 12, Fig. 1) and a group of support fingers/tabs (26) mounted on the inside of the perforated wall. The description of these support fingers in applicant's claim 6 is simply a statement of their intended use and is not any patentable weight. Further, the tabs of Henderson would function to support logs. Henderson also discloses a group of handle holes (30) mounted at the top of the perforated sidewall and a group of tabs

10. Claims 1, 3-5, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,765,397 to Henderson ("Henderson") in view of U.S. Patent No. 4,909,235 to Boetcker ("Boetcker") and U.S. Patent No. 5,163,415 to Moncrief et al. ("Moncrief").

Henderson discloses in Figures 1-6 an invention similar to that described in applicant's claims 1, 3-5, and 8. In particular, Henderson discloses a portable campfire/stove in a can comprising a canister base assembly (54, see Fig. 2) that supports a lower burner assembly (14)

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and an upper burner assembly (12) that fits within the lower burner assembly (see Fig. 1 and note lip 18 fits within lip 34). Henderson further discloses a barbecue grill assembly (22) that that be attached and removed from the upper burner assembly.

In regard to the recitations of a canister assembly moveable between a closed position and an open position, Henderson discloses that member (54) can serve as both a base and cover (see Figs. 2 and 4) but possibly does not disclose the use of both at the same time.

Henderson also does not disclose a centering ring on the canister base assembly, a sealing ring, or a group of catch mechanisms.

Boetcker teaches a portable campfire/stove in the same field of endeavor as Henderson. In Boetcker the portable campfire/stove includes a base member (34) and a canister assembly/snuffer plate (48) with a sealing ring (23). Boetcker also discloses that the snuffer plate (48) includes a locking mechanism, which is considered the equivalent a catch mechanism recited in applicant's claim 2 (see Boetcker, col. 8, lines 28-30). To have included multiple locking/catch mechanisms is considered to be simply a matter of duplication of parts, which is not considered patentably distinct absent the showing of some new or unexpected results over the prior art of record. (See MPEP § 2144.04(VI)(B)). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the portable campfire/stove of Figure 2 of Henderson to include the canister assembly/snuffer plate of Boetcker as this plate desirably functions to extinguish a flame within the burner portions (see Boetcker, col. 5, lines 26-39) and aid in allowing the campfire/stove to be easily transported to a desired location (see Boetcker, col. 8, lines 33-40).

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Moncrief also teaches a portable campfire/stove in the same field of endeavor as Henderson. In Moncrief a base plate (11) includes a fixed centering ring (23) (see col. 2, lines 52-54). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the base plate of portable campfire/stove of Henderson to include a centering ring as taught by Moncrief as this ring desirably functions to retain the burner portions in a stable centered upright position (see Moncrief, col. 2, lines 59-66).

Conclusion

11. This action is made non-final. A THREE month shortened statutory period for reply has been set. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) months from the mailing date of this communication.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents to Newcomer et al., Armistead, Hait, and Japanese Patents 10-220761 and 2003-28427 are cited to further show the state of the art concerning portable campfires/stoves.


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (571) 272-4874. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (571) 272-4877. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Any questions on access to the Private PAIR system should be directed to the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

jcc
December 7, 2004


JOSIAH COCKS
PRIMARY EXAMINER
ART UNIT 3749